

Before the  
POSTAL RATE COMMISSION  
WASHINGTON, DC 20268-0001

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WASHINGTON, DC 20268-0001

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Postal Rate and Fee Changes, 2000

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Docket No. R2000-1

**STAMPS.COM'S REPLY TO CARLSON'S RESPONSE TO OBJECTION TO  
PROVIDING ACCESS TO STAMPS.COM'S PROTECTIVE MATERIAL**

Stamps.com hereby replies to Douglas F. Carlson's response, dated August 15, 2000, to Stamps.com's objections to the application of Douglas F. Carlson for access to material submitted by Stamps.com under protective conditions.<sup>1</sup>

The material being sought is considered by Stamps.com to be highly confidential and arises out of a survey conducted by Stamps.com of its own customers. (Later this week, Stamps.com will provide material under protective conditions pursuant to POR 2000-1/115.) These are the only materials that Stamps.com has provided or intends to provide under protective conditions. Stamps.com has previously provided testimony from four witnesses and provided as a public library reference all information from its customer survey that is relevant to Stamps.com's discount proposal. Stamps.com also provided as a public library reference other customer survey material that was not relied upon in testimony, but was not considered confidential. (See Stamps.com-LR-2 and LR-3.) The information provided under protective order forms *no part* of Stamps.com's

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<sup>1</sup> We reiterate that Stamps.com's objection to providing Mr. Carlson access to its confidential material is in no way directed at him personally and is not intended to diminish the valuable role he plays as a member of the general public who has chosen to participate actively in these hearings. He should be commended for taking an interest in these proceedings.

proposal for discounted PC Postage rates and is not relied upon or relevant to the testimony of these witnesses. Thus, while the relevance of the protected material to this proceeding is little or none, the confidentiality of the material is high, as testified to by Tom Kuhr in a declaration he filed with the Commission. (See Declaration of Thomas Kuhr, docketed on July 5, 2000.)

Mr. Carlson concedes in his response that the confidential material that Stamps.com provided under protective order was not provided in response to any of his discovery requests. (See Carlson response, August 15, 2000, p. 3.) Mr. Carlson also fails to identify any reason or justification for being granted access to Stamps.com's confidential material. Indeed, he *refuses* to say why he desires access to this material, or why it would be necessary for him to have access to this material in order to prepare his brief or continue his participation in this proceeding. (See Carlson response, August 15, 2000, p. 2.) The inevitable conclusion is that Mr. Carlson does not have a reasonable need to view Stamps.com's confidential material in order to effectively continue his participation in this proceeding.

Mr. Carlson contends he need not identify any need for access to Stamps.com's protected material because the Commission's protective order does not require a party to identify such a need when seeking access. While initially there may be no need to identify a reason for being granted access to protected material, there is certainly a presumption that someone requesting such access have such a reason. It would be a waste of the Commission's resources for a party to engage the Commission's mechanism for obtaining access to protected material simply out of curiosity.

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In any event, when the party submitting confidential information to the Commission raises an objection to a request for access, as Stamps.com has done, it becomes incumbent on the party seeking access to come forth and identify the reasons access is needed. Absent the identification of such a need, the application for access should be denied out of hand. The ability of a party to participate in these proceedings does not provide that party an entitlement to review the confidential information of another party simply out of curiosity.

Because Mr. Carlson has not identified any need for access to Stamps.com's protected material, the issue of providing access to him should not be a difficult question for the Commission to decide. Had Mr. Carlson identified a need for such access, the Commission's decision would be more problematic. In such circumstances, the Commission would then have to examine the justifications offered by Mr. Carlson, determine their weight, and balance them against the interests of Stamps.com and the Commission in protecting against unnecessary disclosure of a party's confidential information.

So here is what we have: In response to a discovery request from the Postal Service, Stamps.com has submitted highly confidential material under protective conditions. This confidential information was created by Stamps.com, forms no part of Stamps.com's discount proposal, and is not relied upon by any of its witnesses. At most, the confidential material has minor relevance to this proceeding. An individual who is a participant in this proceeding requests access to the material. But that individual did not seek the information in numerous discovery requests and can

articulate no reason why it is necessary for him to have access to the material. Under such circumstances, it is reasonable to deny access to that individual.

Mr. Carlson has been given his chance to identify why he needs access to Stamps.com's confidential material. He has refused to do so. He should therefore be denied access to it.

Respectfully submitted,

David Hendel by BFW

David P. Hendel  
Wickwire Gavin, PC  
8100 Boone Blvd., Suite 700  
Vienna, VA 22182-2642

Dated: August 21, 2000

**CERTIFICATE OF SERVICE**

I hereby certify that I have this 21<sup>st</sup> day of August, 2000, served the foregoing document in accordance with the Commission's Rules of Practice.

David Hendel by BFW  
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David P. Hendel